

# ZONING RECLASSIFICATION APPLICATION

## Harford County Board of Appeals

Bel Air, Maryland 21014

AUG 22 2007

Case No. 172

Date Filed 8/15/07

Hearing Date \_\_\_\_\_

Pre-Conf. \_\_\_\_\_

Receipt \_\_\_\_\_

Fee \$800.00

Shaded Area For Office Use Only

### Note

1. It is required that the applicant have a pre-filing conference with the Department of Planning and Zoning to determine the necessary additional information that will be required.
2. The burden of proof in any rezoning case shall be upon the Petitioner.
3. Any application in a zoning case and any amendment thereto shall contain specific allegations setting forth the basis for granting of the request.
4. Petition must contain names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.
5. Application will be reviewed for completeness within ten (10) working days of submittal. Applicant will be notified by mail of completeness of application.

### Petitioner

Name Randy E. Reinecke and William H. Reinecke, III Phone Number \_\_\_\_\_

Address P.O. Box 708 Fallston MD 21047-0708  
Street Number Street State Zip Code

Property Owner Same Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
Street Number Street State Zip Code

Contract Purchaser None Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
Street Number Street State Zip Code

Attorney/Representative Kevin J. Mahoney, Esquire Phone Number 410-893-7500

Address P.O. Box 1776 Bel Air MD 21014-7776  
Street Number Street State Zip Code

## Land Description

Address and Location of Property (with nearest intersecting road) 2151 Carrs Mill Road near  
Mill Dale Court

Subdivision \_\_\_\_\_ Lot Number 1 Acreage/Lot Size 6.03 AC Election District 03

Existing Zoning AG Proposed Zoning RR Acreage to be Rezoned 6.03 AC

Tax Map No. 48 Grid No. 3B Parcel 171 Deed Reference 5750/226

Critical Area Designation N/A Land Use Plan Designation Rural Residential

Present Use and ALL improvements: One single family dwelling.

Proposed Use (If for subdivision development, proposed number of lots, type of dwellings, and type of development.

Example: Conventional, Conventional with Open Space, Planned Residential Development) creation of  
additional residential lot.

Is the property designated a historic site, or does the property contain any designated or registered historic structures?

No If yes, describe: \_\_\_\_\_

Estimated Time Requested to Present Case: One Hour

## Required Information To Be Attached

(Submit three (3) copies of each):

(a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five hundred (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation.

(b) A statement of the grounds for the application including:

(1) A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.

(2) A statement as to whether there is an

allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change.

(c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.

(d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:

(1) Location of site.

(2) Proposed nature and distribution of land uses, not including engineering drawings.

(3) Neighborhood (as defined by the Applicant).

3 : 10/5/06  
13 : 3434  
30083

### **REQUEST**

Rezoning of 6.03 acres from AG (Agricultural) to RR (Rural Residential)

### **JUSTIFICATION**

The Harford County Council made a mistake in legal sense in zoning the subject property AG during the 1997 Comprehensive Zoning Process. The subject property has long been shown as rural residential on the Harford County Master Land Use Plan. The 6.03 acre parcel is inappropriate for agricultural use. It adjoins the Fallston Volunteer Fire Company and Fallston High School complex and is surrounded by rural residential development. All of the facts were know or should have been known to the Harford County Council at the time of the 1997 comprehensive rezoning.

- (4) All surrounding zoning.
- (5) Proposed public or private capital improvements.
- (e) Previous individual rezonings and recommendation since the effective date of the Comprehensive Rezoning, within the neighborhood of the petitioned area, their case numbers, dates, and decisions.
- (f) Environmental features map indicating woods, fields, streams, floodplains, non-tidal wetlands, etc.
- (g) Property deed and a boundary survey prepared and sealed by a registered surveyor, including dimension of area requested to be rezoned if only a portion of the property.
- (h) Private restrictions or covenants, if any, applicable to subject parcel.
- (i) Any agreements with individuals or associations in the neighborhood related to the proposed zoning shall be submitted.
- (j) Availability of public water and sewer.

## Additional Information as Required by the Department of Planning and Zoning

- (a) Existing and proposed libraries, parks, schools, fire and police departments.
- (b) Demonstration of compatibility of the proposed use with existing and proposed development for the area.
- (c) Traffic impact study.
- (d) Economic and Environmental impact studies.
- (e) Estimated population for existing and proposed petitioned area and neighborhood, as defined.
- (f) Soils analysis.
- (g) Aerial photograph.


CASE 172 MAP 48 TYPE Rezoning

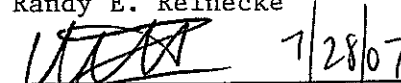
ELECTION DISTRICT 03 LOCATION 2151 Carrs Mill Road

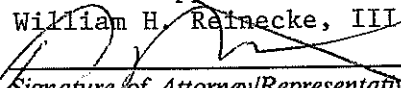
BY Randy and William Reinecke, PO Box 708, Fallston 21047


Appealed because a rezoning pursuant to Section 267-12A of the Harford County Code to rezone 6.03 acres from a AG District to a RR District requires approval by the Board.

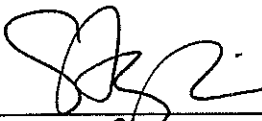
I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information, and belief.


 7/28/07  
Signature of Applicant/Owner Date  
Randy E. Reinecke

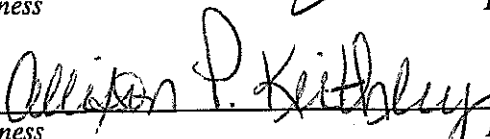
 7/28/07  
Signature of ~~Contract Purchaser/Owner~~ Date  
Applicant/Owner  
William H. Reinecke, III

 8/13/07  
Signature of Attorney/Representative Date  
Kevin J. Mahoney, Esquire

 8/21/07  
SPG Director of Planning and Zoning Date

 072807  
Witness Date

 072807  
Witness Date

 8/13/07  
Allison P. Keithley Date

 8/21/07  
Zoning Staff Date

8





**DAVID R. CRAIG**  
HARFORD COUNTY EXECUTIVE

**LORRAINE COSTELLO**  
DIRECTOR OF ADMINISTRATION



**C. PETE GUTWALD**  
DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

November 15, 2007

### STAFF REPORT

### BOARD OF APPEALS CASE NO. 172

**APPLICANT/OWNER:**

Randy E. Reinecke  
William H. Reinecke, III  
P.O. Box 708  
Fallston, MD 21047

**REPRESENTATIVE:**

Kevin J. Mahoney, Esquire  
Gessner, Snee, Mahoney and Lutche, PA,  
11 South Main Street, PO Box 1776,  
Bel Air, Maryland 21014

**LOCATION:**

Southeast corner of Carrs Mill  
Road and Mill Dale Court  
Tax Map: 48 / Grid: 3B / Parcel: 171  
Election District: Third (3)

**ACREAGE:**

6.03 acres

**ACREAGE TO BE REZONED:**

6.03 acres

**EXISTING ZONING:**

AG/Agricultural District

**PROPOSED ZONING:**

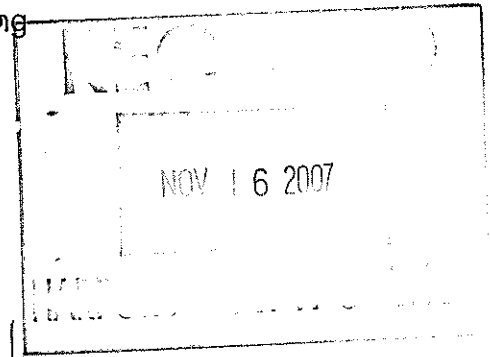
RR/Rural Residential District

**DATE FILED:**

August 15, 2007

**HEARING DATE:**

November 28, 2007



*Preserving Harford's past; promoting Harford's future*

## STAFF REPORT

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Reinecke

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### APPLICANT'S REQUEST and JUSTIFICATION:

See ATTACHMENT 1.

### LAND USE and ZONING ANALYSIS:

#### Location and Description of Neighborhood:

The Applicant's property is located on the southeast corner of Carrs Mill Road and Mill Dale Court approximately 2,000 feet north of MD Route 152. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The Applicant has submitted a map delineating their suggested neighborhood with the Application (Attachment 4). The Department agrees that the neighborhood defined by the Applicant is an appropriate description of the neighborhood for this case.

#### Land Use – Master Plan:

The subject property is outside of the Development Envelope on the southeast corner of Carrs Mill Road and Mill Dale Court. The predominant land use designation in this area of the County is Rural Residential. The Natural Features Map reflects Stream Systems. The subject property is designated as Rural Residential which is defined by the 2004 Master Plan as:

*Rural Residential – Areas of focused rural development within the agricultural area, which allow low intensity residential opportunities while maintaining the character of the surrounding countryside. Water and sewer services are not planned for these areas. Residential density is limited to 1.0 dwelling units per 2 acres.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

#### Land Use – Existing:

The existing land uses generally conform to the intent of the Master Plan. The area predominately contains single-family dwellings and several institutional uses. The institutional uses in the area include churches, a fire station and schools.

The subject property is irregularly shaped, contains 6.03 acres and is known as Lot 1 of the Land of Acreage Associates. Lot 1 was created in 1983 from a larger tract of approximately 84.0+/- acres. After Lot 1 was created, the remainder of the tract was developed as the Mill Dale subdivision in the 1990's. The subject property has approximately 320-feet of road frontage along Carrs Mill Road and 780-feet of frontage along Mill Dale Court. The subject property is currently improved with a single-family dwelling and accessory structures such as sheds. The



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Fallston Volunteer Fire Department abuts the subject property to the south. The Mill Dale single-family residential subdivision surrounds the subject property to the north and east. There are also single-family dwellings located on the west side of Carrs Mill Road across from the subject property. The Fallston High School property is located approximately 300-feet south of the subject property.

The topography within this area ranges from rolling to steep, especially near the stream valleys. The subject property is gently sloping from the west to the east. The majority of the property is maintained lawn with an area of mature trees located on the north side of the property along Mill Dale Court. Enclosed with the report are a copy of the topography map, aerial photograph, and site photographs (Attachments 7, 8 and 9A-D).

### Zoning and Zoning History:

#### Zoning:

The zoning classifications in the area are generally consistent with the 2004 Master Plan as well as the existing land uses. The area contains a mix of AG/Agricultural District and RR/Rural Residential District zoning. The subject property is zoned AG/Agricultural District as shown on the enclosed copy of the Zoning Map (Attachment 10).

#### Zoning History:

The subject property has remained zoned AG/Agricultural District since 1957 (Attachments 11 - 14). The Applicant requested that the property be rezoned to RR/Rural Residential District during the 2005 review. The County Council voted to change the property to RR/Rural Residential District. However, the County Executive vetoed the Legislation and the County Council did not override the veto. Therefore, the zoning assigned to the property in 1997 remains in effect. Attached are copies of the 2005 zoning log and issues map (Attachment 15 and 16).

### **BASIS FOR INDIVIDUAL REZONING REQUEST:**

Under Maryland case law, the burden of proof lies with the Applicant to provide information that there has been a substantial change in the overall character of the neighborhood or that the County made a mistake during the last comprehensive zoning review process. It should be noted that the courts have stated that any argument for change cannot be based on existing changes that were anticipated during the last comprehensive review.

#### Substantial Change Argument:

The Applicant is not claiming that a substantial change in the neighborhood has occurred. The Department would agree that a substantial change in the neighborhood has not occurred since 1997.

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### Mistake:

The Applicant states that, "The Harford County Council made a mistake in the legal sense in zoning the subject property AG during the 1997 Comprehensive Zoning Process. The subject property has long been shown as rural residential on the Harford County Master Land Use Plan. The 6.03 acre parcel is inappropriate for agricultural use. It adjoins the Fallston Volunteer Fire Company and Fallston High School complex and is surrounded by rural residential development. All of the facts were known or should have been known to the Harford County Council at the time of the 1997 comprehensive rezoning."

The Department of Planning and Zoning disagrees with the Applicant that the County Council made a mistake in zoning the subject property AG/Agricultural District during the 1997 Comprehensive Zoning Review. There are many other AG/Agricultural District zoned parcels within the area. The AG/Agricultural District allows for low density residential development. The subject property is improved with a single-family dwelling and accessory structures in accordance with the Harford County Code. The development of the subject property is similar to the development of other AG/Agricultural District parcels that are located in the area. The Applicant has not provided a sufficient argument to justify that a mistake occurred in the zoning of the subject property during the 1997 Comprehensive Zoning Review. Therefore, the Department is recommending that the request to rezone the subject property from AG/Agricultural District to RR/Rural Residential District be denied.

### **ANALYSIS OF INDIVIDUAL ZONING REQUEST:**

#### Conformance with the Master Plan and Land Use Element Plan:

The proposed rezoning is in conformance with the intent of the 2004 Master Plan. The Land Use Plan shows the area designated as Rural Residential.

#### Impact of Requested Zoning:

The requested rezoning would not adversely impact the neighborhood.

### **COMMENTS FROM ADVISORY GROUPS:**

#### Historic Preservation Issues:

There are no historic sites on the property. No preservation easements impact the property.

#### Planning Advisory Board:

The Planning Advisory Board (PAB) reviewed the request at their meeting on November 14, 2007. The PAB voted 4-0 to recommend that the requested change in zoning be denied (Attachment 17).

STAFF REPORT

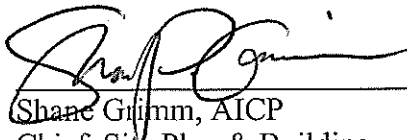
Board of Appeals Case Number 172

Reinecke

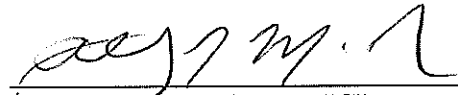
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**RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the request to rezone the subject property from AG/Agricultural District to RR/Rural Residential District be denied.



Shane Grimm, AICP  
Chief, Site Plan & Building  
Permits Review



Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning

SPG/ASM/jf